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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,605	07/29/2003	Lars Oppermann	P-7608	8678
24209 7590 10/29/2007 GUNNISON MCKAY & HODGSON, LLP 1900 GARDEN ROAD SUITE 220 MONTEREY, CA 93940			EXAMINER KIANERSI, MITRA	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 10/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/630,605

Applicant(s)

OPPERMANN, LARS

Examiner

Mitra Kianersi

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07202003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06102005</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-30 are rejected under 35 U.S.C. 102(e) as being Anticipated by

Straathof et al. (EPO 784276 A1).

1. Claims 1, 15 and 17: a method for generating an operational processing load including: (load testing software application and generating a script from the captured application, col 2, lines 5-10)

accessing, at a client, test input data for controlling at least one application using the client; (accessing the data through the references, col 2, lines 5-25)

establishing, at said client, a plurality of communication sessions involving the at least one application; (generating a script from the captured application calls, col 2, lines 5-25)

producing, at said client, test input using said test input data in association with each of the plurality of communication sessions. (producing scripts for load testing, col 2, lines 5-25)

2. Claims 2, 16, and 18: the method further comprising:

recording user input operations via a graphical user interface at the client, wherein the user input operations constitute the test input data for controlling the at least one application at a server. (recording timing information of the captured application calls, col 5, lines 5-25)

Art Unit: 2145

3. Claims 3 and 19: the method where said recording user input operations further comprises:

recording time intervals between individual user input operations. (recording timing information of the captured application calls, col 5, lines 5-25)

4. Claims 4 and 20: the method further comprising: storing the test input as the test input data at the client prior to said accessing; (the database application then verifies and stores the logon information, col 7, lines 1-5)

replaying the test input in each of the communication sessions to simulate user input. (the generated script is able to reproduce the user session including the timing of the calls, Fig. 14 and col 12, lines 15-23)

5. Claims 5 and ~~20~~²¹: the method wherein each of the plurality of communication sessions involves a different instance of a graphical user interface at the client. (the capture agent may be utilized with a GUI tester so that the GUI tester operates the client application, col 14, lines 16-28)

6. Claims 6 and 22: the method wherein each of the plurality of communication sessions includes a thread in a process involving the at least one application. (the capture agent installs hooks to capture user interactions and database functions at step 456, col 12, lines 5-10)

7. Claims 7 and 23: the method wherein each of the plurality of communication sessions involves an instance of the at least one application at the server. (Fig. 10, shows a process the capture agent performs to generate a script from the capture calls. At step 502, the user interface and application calls are captured. Col 12, lines 1-5)

8. Claims 8 and 24: the method further comprising: transmitting the test input in each *communication* session to a server. (the application call is sent over the network to the database server, col 7, lines 5-12)

9. Claims 9 and 25: the method wherein said establishing said plurality of communication sessions further comprises starting at least two communication sessions

with a time offset. (application processing time is used to refer to the time starting when a user interface call is received from the user and ending when the client application responds locally by redrawing a window on the display, col 12, lines 55-60)

10. Claims 10 and 26: the method wherein said establishing said plurality of communication sessions further comprises establishing each of the plurality of communication sessions based on statistical user behavior data. (The log files are ASCII files on the server so that third party statistical and graphics programs may be utilized to create custom reports, col 17, lines 5-12)

11. Claims 11 and 27: the method wherein the producing the test input further comprises producing the test input based on statistical user behavior data. (The log files are ASCII files on the server so that third party statistical and graphics programs may be utilized to create custom reports, col 17, lines 5-12)

12. Claims 12 and 28: the method, wherein the producing the test input further comprises:
modifying time intervals in said time intervals between individual user input operations. (the term "think time" is used to refer to the time starting when the computer is able to accept input from a user and ending when the user enters commands or data and provides many option, col 13, lines 5-25)

13. Claims 13 and 29: the method, wherein said modifying includes compressing at least one time interval in said time intervals between individual user input operations.

14. Claims 14 and 30: the method, wherein said modifying includes expanding at least one time interval in said time intervals between individual user input operations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Kianersi whose telephone number is (571) 272-3915. The examiner can normally be reached on 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cordone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mitra Kianersi
Oct/12/2007


JASON CARDONE
SUPERVISORY PATENT EXAMINER